

# Memo

**To:** Seattle City Council

**From:** Alison Holcomb, Panel Member

**CC:** Nick Licata, Chair; Tom Rasmussen, Vice Chair; Tom Carr, Panel Member; D'Adre Cunningham, Panel Member; Dominic Holden, Panel Member; Ron Mochizuki, Panel Member; Kris Nyrop, Panel Member; Dan Satterberg, Panel Member; Ken Stark, Panel Member; Theryn Kigvamasud'Vashti

**Date:** May 10, 2004

**Re:** Report of Progress/Establishment of Reporting Criteria

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## Introduction

The eleven members<sup>1</sup> of the Marijuana Policy Review Panel were appointed by Council President Peter Steinbrueck pursuant to the mandates of SMC 12A.20.060 – the ordinance passed into law by Initiative 75. The ordinance directs the Panel to complete three assignments:

1. Elect a chairperson and meet at least quarterly or more frequently as necessary;
2. By March 31, 2004,<sup>2</sup> establish reporting criteria for the Seattle Police Department and City Attorney's Office to report marijuana arrests and prosecutions; and
3. Submit a comprehensive written report with recommendations to the City Council that will include, but not be limited to, information concerning the public safety, public administration, public health and fiscal impacts of [the making of the investigation, arrest and prosecution of marijuana offenses, where the marijuana was intended for adult personal use, the City's lowest law enforcement priority]. This report shall be completed and presented at the first meeting of the full City Council for calendar year[s] 2006 [and 2007].<sup>3</sup>

This memorandum is submitted to the City Council to advise its Members of the status of the progress of the Panel toward the completion of its assignments.

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<sup>1</sup> Two (2) members of the City Council, two (2) citizen members, one (1) drug abuse prevention counselor, one (1) harm reduction advocate, one (1) representative of the Seattle Police Department, two (2) criminal defense attorneys, one (1) representative of the King County Prosecuting Attorney's Office and one (1) representative of the Seattle City Attorney's Office.

<sup>2</sup> The ordinance actually specifies a deadline of March 31, 2003 because I-75 was originally intended for the November 2002 ballot. The Panel agreed, at its first meeting on February 25, 2004, to function in accordance with the acknowledged intent of the drafters of I-75 – that the established deadlines fall after the passage of the initiative, and that the Panel monitor and report on three years of investigations, arrests, and prosecutions of marijuana offenses.

<sup>3</sup> The Panel agreed that it should report to the City Council twice: once in accordance with the actual deadline written in the ordinance, and once after the drafters' intended three years of investigation, arrest, and prosecution reporting.

## Panel Meetings

The Panel has met three times: on February 25, when we elected Nick Licata as Chair and Tom Rasmussen as Vice Chair and initiated our discussions of the establishment of reporting criteria; on March 10, when we reviewed and discussed proposed draft reporting criteria presented by D'Adre Cunningham and Tom Carr's office, and appointed a Reporting Criteria Subcommittee (Carr, Cunningham, Holcomb, Holden, Kigvamusud'Vashti, and Mochizuki) to examine possible reporting criteria in greater detail and present proposed criteria for the full Panel's consideration at its third meeting, on March 24. The Subcommittee met on March 17. The next meeting of the full Panel is scheduled for May 12. At that meeting, the Panel will review the first reports from the Seattle Police Department (to be provided via the King County Prosecuting Attorney's Office) and the Seattle City Attorney, described more fully below.

## Reporting Criteria

On March 24, the Panel approved the following reporting criteria and process for reporting:

1. The Seattle Police Department shall, beginning April 1, 2004, provide Dan Satterberg, Panel Member and Chief of Staff to King County Prosecuting Attorney Norm Maleng, with the names of every suspect identified in cases received by the SPD Narcotics Section and referred to the King County Prosecuting Attorney for the filing of any marijuana-related charge, and the King County Prosecuting Attorney's Office shall provide the Panel with copies of the Information, Certification of Determination of Probable Cause, and Bail Request filed against each such suspect. The King County Prosecuting Attorney handles all felony filings referred by the Seattle Police Department (the Seattle City Attorney handles only misdemeanors). The Information, Certification of Determination of Probable Cause, and Bail Request are public documents once filed in court. The Information is the charging document that identifies the specific charge(s) filed against a defendant. The Certification of Determination of Probable Cause is a narrative report prepared by a Deputy Prosecuting Attorney that describes the facts discovered by law enforcement's investigation of a suspected crime which, in the Deputy Prosecuting Attorney's opinion, establish probable cause to believe that the accused person committed the crime with which he or she is charged. Combined, these two documents should provide the Panel with most of the data it needs to formulate its final report to the City Council: how the alleged offense was brought to the Seattle Police Department's attention, what investigative methods were utilized by the Department, whether the suspect was arrested and/or booked into jail, and whether the offense was one involving marijuana intended for adult personal use (including medical marijuana use). Since the Information will include a court case number, the Panel will also be able to track the disposition of the case and examine its impact on public administration and fiscal management. At the Panel's last meeting, Captain Mochizuki roughly estimated the number of "Found Narcotics/Marijuana" reports – reports involving marijuana not linked to an identifiable suspect – to comprise approximately five percent of all marijuana incidents investigated by the Department; however, there were no available statistics to verify that percentage at this time. The Panel will continue to consider how such incidents can be tracked so that our final report can include reliable data regarding the percentage of marijuana-related investigations that are referred for prosecution.

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2. The Seattle City Attorney shall, beginning January 1, 2004, provide the Panel with a spreadsheet listing all cases in which the defendant was charged with misdemeanor possession of marijuana and describing the disposition of each. The proposed spreadsheet provided to the Panel on March 24 detailed the charges filed; the ultimate disposition; the defendant's race, gender, and date of birth; and whether he or she was booked into jail. It did not list the Seattle Municipal Court Case Number for each case. Some members of the Panel feel that the case numbers would be an important addition to the data provided by the City Attorney's office because the numbers would allow the Panel to access the court files (all public records unless sealed or destroyed pursuant to court order) where information relevant to the manner in which the investigation was initiated or whether the marijuana at issue was intended for adult personal use might be available. The Seattle City Attorney's office is concerned that dissemination of these case numbers to the Panel may violate the Washington State Criminal Records Privacy Act (RCW 10.97), and the office is unwilling to commit to the production of this data at this time. The Panel will revisit this issue at its next meeting.

The Panel welcomes any questions that Council Members may have about its work to date and plans for future progress.